



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 15	Senate Substitute Amendment 1 and Senate Amendment 1 Thereto
<i>Memo published:</i> February 24, 2003	<i>Contact:</i> Richard Sweet, Senior Staff Attorney (266-2982)

2003 Senate Bill 15 relates to creation of a Joint Survey Committee on State Mandates and required funding of state mandates.

SENATE SUBSTITUTE AMENDMENT 1

Joint Committee

The bill creates a Joint Survey Committee on State Mandates, consisting of six legislators, the Secretary of Administration or his or her designee, and two nonlegislative members.

The substitute amendment creates a Joint Committee on State Mandates, consisting only of legislative members, with three majority party and two minority party legislators appointed from each house.

Definition of "Mandate"

The bill generally defines "mandate" as a constitutional or statutory provision placing a requirement on a local governmental unit. In addition, for certain provisions, the definition includes administrative rules that place a requirement on a local governmental unit.

The substitute amendment deletes references to constitutional provisions that place a requirement on a local governmental unit. In addition, the substitute amendment excludes from the definition of "mandate" statutes and rules that relate to employment discrimination or the compensation, benefits, leave, collective bargaining rights, or conditions of employment of employees or retirees of a local governmental unit.

Existing Mandates

The bill provides that if a law enacted or a rule promulgated on or before the effective date of Senate Bill 15 or a constitutional provision in effect before that date is in effect on July 1, 2006, and contains a mandate that is wholly state-imposed and has a negative uncompensated fiscal effect on local governmental units, the mandate may not be enforced until the mandate no longer has such a fiscal effect.

The substitute amendment modifies this by deleting references to constitutional mandates. In addition, the substitute amendment deletes the provision that states that the mandate may not be enforced. Rather, the substitute amendment states that if the joint committee determines that a law enacted or a rule promulgated on or before the effective date of Senate Bill 15 contains such a mandate on local governmental units, the joint committee must introduce a bill in each house of the Legislature repealing the law or making the rule ineffective unless the committee determines the uncompensated fiscal effect is minimal.

Legislative Fiscal Bureau Report

The bill requires the Legislative Fiscal Bureau to identify all mandates existing on the bill's effective date and to submit that information to the joint survey committee by May 1, 2005. By August 1, 2005, the joint survey committee would be required to introduce one or more bills repealing all mandates.

The substitute amendment modifies this by requiring the Legislative Fiscal Bureau to identify all mandates "other than mandates that have a minimal fiscal effect." In addition, the substitute amendment deletes the date by which the joint committee must introduce bills and only requires that the bills repeal all mandates that are "wholly state-imposed and that have a negative uncompensated effect on local governmental units."

Referral of Bills

The bill provides that upon the introduction in either house of the Legislature of a proposal that would impose a mandate, the proposal must be referred to the joint survey committee and states that the proposal may not be considered further by either house or any other committee until the joint survey committee submits a written report with specified information.

The substitute amendment modifies this by allowing the presiding officer of the house not to refer the bill to the joint committee if the presiding officer determines that the mandate has a minimal fiscal effect on local governmental units. In addition, the substitute amendment allows for "passive review" of a proposal containing a mandate; under the substitute amendment, the proposal may not be considered further by either house or any other committee until the earlier of 30 days after referral or the time at which the joint committee submits its written report.

Appropriations

The bill provides that the Legislature may not enact a bill on or after the effective date of Senate Bill 15 that contains a mandate unless the bill contains an appropriation to provide reimbursement for

the current fiscal biennium and requires that an appropriation be provided in all subsequent years in which the mandate is imposed. If a bill that contains a mandate is not in compliance with this requirement or if the Legislature does not provide an appropriation, the mandate contained in the bill may not be enforced until the required appropriation is provided.

The substitute amendment modifies this provision by stating that the Legislature may not enact a bill on or after the effective date of Senate Bill 15 that contains a mandate unless the bill contains such an appropriation described above or unless the bill has a public hearing before the joint committee.

Both the bill and the substitute amendment create an appropriation line in the appropriation schedule in ch. 20, Stats., for state funding of mandates. The bill and substitute amendment state that the Department of Administration must reimburse local governmental units for their approximate cost not otherwise funded by the state that are attributable to mandates.

Administrative Rules

The bill provides that an agency may not promulgate a rule or take an action on or after the effective date of Senate Bill 15 that imposes a mandate, unless there is a sufficient amount in the appropriation line established to fund mandates or other appropriations for reimbursing local governments for their approximate costs that are attributable to the mandate without jeopardizing reimbursement for other mandates.

The substitute amendment modifies this to make it inapplicable to mandates that have a “minimal fiscal effect.”

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Senate Amendment 1 excludes from the definition of “mandate” the law relating to municipal prevailing wages under s. 66.0903, Stats.

LEGISLATIVE HISTORY

Senate Substitute Amendment 1 was introduced by Senator Brown. On February 18, 2003, the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform recommended adoption of the substitute amendment, and passage of the bill as amended, both on votes of Ayes, 5; Noes, 0.

Senate Amendment 1 to the substitute amendment was introduced by Senator Welch. On February 20, 2003, the Senate adopted the amendment, adopted the substitute amendment, and passed the bill as amended, all on voice votes.

RNS:rv:ksm;jal;tlu